

TITLE 326 AIR POLLUTION CONTROL DIVISION

Rule Information Sheet

Municipal Solid Waste Landfill Emissions Update
LSA Document #22-109

Overview

Municipal solid waste landfills (MSWLFs) are discrete areas of land or excavation that receive household waste or other types of nonhazardous wastes such as commercial solid waste, nonhazardous sludge, and industrial nonhazardous solid waste. On May 21, 2021, the United States Environmental Protection Agency (U.S. EPA) published a final rule at 40 CFR 62, Subpart OOO, that established federal plan requirements for states to submit plans implementing the 2016 MSWLF emission guidelines (40 CFR 60, Subpart Cf).

Indiana is currently operating under state rules that implemented the federal New Source Performance Standards at 40 CFR 60, Subpart WWW, and emission guidelines for MSWLFs at 40 CFR 60, Subpart Cc, that U.S. EPA promulgated on March 16, 1996. While it is U.S. EPA's intention that the 2021 federal plan replaces the existing 2016 approved state plan, the federal rules for the 2016 emission guidelines did not repeal 40 CFR 60, Subpart WWW that Indiana's state rules rely on. Consequently, Indiana is now subject to both the federal plan at 40 CFR 62, Subpart OOO, as well as the 1996 emission guidelines in state rules, which creates conflicting requirements for Indiana sources. IDEM intends to address this conflict with a Nonrule Policy Document in the interim, until this rulemaking is final and effective.

This rulemaking will repeal 326 IAC 8-8 and 326 IAC 8-8.1, and add a new rule at 326 IAC 8-8.2, to incorporate 40 CFR 62, Subpart OOO for MSWLFs into state rules, which will remove the conflicting requirements. The incorporation by reference also includes the updated federal language added on February 14, 2022 (87 FR 8203), to several sections of 40 CFR 62 to clarify compliance schedules, the closed subcategory, and the definition of "administrator." Once this rule is final, IDEM will submit a state plan to U.S. EPA for approval. Once approved by U.S. EPA, the federal plan will no longer be in effect in Indiana, which will remove the conflicting federal and state requirements.

It should also be noted that while 326 IAC 8-8.1 was put in place solely to address the requirements for a state plan under 40 CFR 60, Subpart Cc, the additional rule at 326 IAC 8-8 for landfills located in Lake, Porter, Clark, and Floyd counties was implemented to address volatile organic compound emission reductions for ozone nonattainment counties. The emission standards in the new rule at 326 IAC 8-8.2 will be applicable statewide and will be sufficient for Indiana to continue meeting ozone planning requirements. Indiana also intends to request a state implementation plan revision to replace 326 IAC 8-8 with the new rule at 326 IAC 8-8.2 once this rulemaking is final.

Affected Persons

Owners and operators of MSWLFs in the state of Indiana.

Reasons for the Rule

This rule is the direct adoption of federal requirements that are applicable to Indiana, and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule. This rulemaking will repeal 326 IAC 8-8 and 326 IAC 8-8.1, and add a new rule at 326 IAC 8-8.2, to incorporate 40 CFR 62, Subpart OOO for MSWLFs into state rules, which will remove conflicting state and federal requirements.

Economic Impact of the Rule

This rulemaking has no impact beyond that which is already imposed by federal law.

Scheduled Board Action and Hearings

First Public Hearing: Public Hearing: June 8, 2022, at 1:30 p.m., at the Indiana Government Center South, 10 North Senate Avenue, Conference Room A, Indianapolis, Indiana.

The public may attend the ERB meeting in person or join by using the following Zoom link, meeting ID, and passcode, or telephone numbers that can be found prior to the meeting at: <https://events.in.gov/idem>.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Keelyn Walsh, Rules Development Branch, Office of Legal Counsel, at kwalsh@idem.in.gov, (317) 232-8229, (800) 451-6027 (in Indiana), or kwalsh@idem.in.gov.